

Atty Docket No.: US010212/N0668-39

REMARKS

1. Claims 1-36 are pending and stand rejected.
Reconsideration of this application is respectfully requested.

2. Claims 1, 3, 7, 13, 15, 19, 25, 27 and 31 remain provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5 and 9-12 of copending Application No. 09/793,035 (the copending application).
The arguments set forth in the reply filed on September 12, 2005, traversing the above rejection are incorporated herein by reference.

Further, the examiner continues to maintain this rejection without providing a meaningful explanation as to the differences between each rejected claim in the application and the corresponding claim in the copending application. It is noted that MPEP 804 (II)(B)(1) states that any obviousness-type double patent rejection should make clear:

- (A) The differences between the inventions defined by the conflicting claims – a claim in the patent compared to a claim in the application; and
- (B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim at issue would have been an obvious variation of the invention defined in a claim in the patent. (Emphasis added.)

The examiner has not provided either (A) or (B). For example, the examiner asserts that certain language in claim 1 and certain language in claim 3 combine together to form language that is similar to certain language in claim 1 of copending Application No. 09/793,035 (the copending application). This type of analysis is improper especially in light of the fact that the examiner has failed to determine the scope and content of claim 1 of the application relative to any claim of the copending application. The examiner has also failed to determine the scope and content of claim 13 of the application relative to any claim of the copending application but instead combines it together with claim 15. In addition, the examiner has also failed to determine the scope and content of claim 25 of the application relative to any claim of the copending application but instead combines it together with claim 27.

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Furthermore, the examiner states that the differences between the combination of claim 1 and 3 of the present application and claim 1 of the copending application are nothing more than a simple tweaking of the wording of claims 1 and 3 of the present application to mirror the claim language of claim 1 of the copending application. This characterization of the differences is without a basis in the language of the claims. Claim 1 of the present application recites:

“encoding an uncoded video to generate extended base layer reference frames, each of the extended base layer reference frames including a base layer reference frame and at least a fractional bitplane of an associated enhancement layer reference frame

generating frame residuals from the uncoded video and the extended base layer reference frames .”

and claim 1 of the copending application recites:

“generating residual images from the video data and the base layer frames utilizing multiple base layer frames for each of the residual images; and coding the residual images with a fine granular scalability technique to produce enhancement layer frames.”

As can be seen, claim 1 of the copending application generates residual images using multiple base layer frames, whereas claim 1 of the present application generates residual images using extended base layer frames which each include at least a fractional bitplane of an associated enhancement layer reference frame. The examiner fails to address these differences in his rejection.

Similarly, the examiner fails to identify or acknowledge the differences between claims 7, 19 and 31 of the application and respective claims 5, 12, and 10 of the copending application. The examiner merely states that these claims are “almost identical”, which clearly they are not.

Thus, it is respectfully submitted that the invention as defined in each of claims 1, 3, 7, 13, 15, 19, 25, 27 and 31 of the present application is not an obvious variation of the invention defined in any of the claims of the copending application.

In view of the foregoing, withdrawal of this rejection is respectfully requested.

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3. Claims 1-36 are now rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,510,177 to De Bonet *et al.* (De Bonet) in view of U.S. Patent 6,614,936 to Wu *et al.* (Wu). This rejection is respectfully traversed.

The claims call for extended base layer reference frames including a base layer reference frame and at least a fractional bitplane of an associated enhancement layer reference frame.

The examiner asserts that De Bonet teaches extended base layer reference frames including a base layer reference frame and at least a portion of an associated enhancement layer reference frame. In making this assertion, the examiner states that the high resolution motion vectors taught in De Bonet, which have been upsampled from motion vectors extracted from the base layer, are a portion of an associated enhancement layer reference frame.

The high resolution motion vectors are not a portion of an enhancement layer reference frame. A motion vector is essentially a pair of numbers or vector representing the displacement between a block, macroblock, etc. in a current frame and a block, macroblock, etc. in a reference frame. Therefore, the high resolution motion vectors taught in De Bonet are not a portion of an associated enhancement layer reference frame, and particularly, are not at least one fractional bitplane of an associated enhancement layer reference frame, as called for in claims 1-36. Consequently, De Bonet does not teach or suggest the claimed extended base layer reference frames.

The addition of Wu fails to cure the deficiencies of De Bonet, as Wu merely describes bitplanes that are encoded in enhancement layers using variable length coding. Wu does not disclose, teach or suggest extended base layer reference frames including a base layer reference frame and at least a fractional bitplane of an associated enhancement layer reference frame. Hence, Wu also fails to teach or suggest the claimed extended base layer reference frames. For at least this reason, claims 1-36 are allowable over De Bonet in view of Wu.

In view of the foregoing, withdrawal of this rejection is respectfully requested.

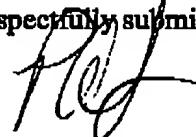
4. Favorable reconsideration of this application is respectfully requested as it is believed that all outstanding issues have been addressed herein and, further, that claims 1-36 are in

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condition for allowance. Should there be any questions or matters whose resolution may be advanced by a telephone call, the examiner is cordially invited to contact applicants' undersigned attorney at his number listed below.

5. The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR 1.16 and any patent application processing fees under 37 CFR 1.17, which are associated with this communication, or credit any overpayment to Deposit Account No. 50-2061.

Respectfully submitted,



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